

EXHIBIT 167

Reed, Larry

September 26, 2007

Baltimore, MD

Page 1

UNITED STATES DISTRICT COURT
OF THE DISTRICT OF MASSACHUSETTS

-----x

IN RE: PHARMACEUTICAL : MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION
PRICE LITIGATION : 01-CV-12257-PBS
THIS DOCUMENT RELATES TO :
U.S. ex rel. Ven-A-Care of : Judge Patti B.
The Florida Keys, Inc., : Saris
Plaintiff, :
vs. :
ABBOTT LABORATORIES, INC., : Chief Magistrate
No. 06-CV-11337-PBS : Judge Marianne B.
Defendants. : Bowler

-----x

VOLUME I

Baltimore, Maryland

Wednesday, September 26, 2007

Videotape Deposition of:

LARRY REED,

the witness, was called for examination by counsel
for the Defendants, pursuant to notice, commencing

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<p>1 at 9:26 a.m., at the law offices of 2 Hogan & Hartson, 111 South Calvert Street, 3 Baltimore, Maryland, before Dawn A. Jaques, 4 Certified Shorthand Reporter and Notary Public in 5 and for the State of Maryland, when were present 6 on behalf of the respective parties: 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 (CAPTIONS CONTINUED)</p>	<p>1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT 2 IN AND FOR LEON COUNTY, FLORIDA 3 THE STATE OF FLORIDA 4 ex rel. 5 -----x 6 VEN-A-CARE OF THE FLORIDA : 7 KEYS, INC., a Florida : 8 Corporation, by and through : 9 its principal officers and : 10 directors, ZACHARY T. : 11 BENTLEY and T. MARK JONES, : 12 Plaintiffs, : 13 vs. : 14 MYLAN LABORATORIES, INC., : Civil Action No.: 15 MYLAN PHARMACEUTICALS, INC., : 98-3032G 16 NOVOPHARM LTD., SCHEIN : 17 PHARMACEUTICAL, INC., TEVA : Judge William L. 18 PHARMACEUTICAL INDUSTRIES : Gary 19 LTD, TEVA PHARMACEUTICAL USA, : 20 WATSON PHARMACEUTICALS, INC., : 21 Defendants. : 22 -----x</p>
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<p>1 IN THE CIRCUIT COURT 2 OF MONTGOMERY COUNTY, ALABAMA 3 -----x 4 STATE OF ALABAMA, : 5 Plaintiff, : Case No. 6 vs. : CV-05-219 7 ABBOTT LABORATORIES, : 8 INC., et al., : Judge Charles 9 Defendants. : Price 10 -----x 11 12 13 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT 14 STATE OF HAWAII 15 -----x 16 STATE OF HAWAII, : 17 Plaintiff, : Case No. 18 vs. : 06-10720-04-EEH 19 ABBOTT LABORATORIES, et al., : Judge Eden 20 Defendants. : Elizabeth Hifo 21 -----X 22</p>	<p>1 FRANKLIN CIRCUIT COURT - DIVISION II 2 CIVIL ACTION NO. 03-CI-1134 3 4 -----X 5 COMMONWEALTH OF KENTUCKY, : 6 Plaintiff, : 7 vs. : Judge 8 : Crittenden 9 ABBOTT LABORATORIES, INC., : 10 Defendant. : 11 -----X 12 13 STATE OF WISCONSIN CIRCUIT COURT 14 DANE COUNTY 15 Branch 9 16 -----x 17 STATE OF WISCONSIN, : 18 Plaintiff, : 19 vs. : Case No. 20 AMGEN, INC., et al., : 04-CV-1709 21 Defendants. : 22 -----x</p>

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202-220-4158

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<p>1 STATE OF SOUTH CAROLINA : IN THE COURT OF 2 COUNTY OF RICHMOND : COMMON PLEAS 3 -----X FOR THE FIFTH 4 STATE OF SOUTH CAROLINA : JUDICIAL DISTRICT 5 and HENRY D. McMASTER : Case No. 6 in his official capacity : 2006-CP-40-4394 7 as Attorney General for : 8 the State of South : 9 Carolina, : 10 Plaintiffs, : 11 vs. : 12 ABBOTT LABORATORIES, : 13 Defendant. : 14 -----X 15 16 17 18 19 20 21 22 (CAPTIONS CONTINUED)</p>	<p>1 A P P E A R A N C E S 2 3 On behalf of the United States of America: 4 5 ANA MARIA MARTINEZ, ESQ. 6 United States Department of Justice 7 Assistant United States Attorney 8 Southern District of Florida 9 99 N.E. 4th Street 10 Miami, Florida 33132 11 TELEPHONE: (305) 961-9431 12 E-MAIL: Ana.maria.martinez@usdoj.gov 13 -and- 14 JUSTIN DRAYCOTT, ESQ. 15 United States Department of Justice 16 Civil Division 17 P.O. Box 261 18 Ben Franklin Station 19 Washington, D.C. 20044 20 TELEPHONE: (202) 305-9300 21 E-MAIL: Justin.draycott@usdoj.gov 22</p>
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<p>1 STATE OF SOUTH CAROLINA : IN THE COURT OF 2 COUNTY OF RICHMOND : COMMON PLEAS 3 : FOR THE FIFTH 4 : JUDICIAL CIRCUIT 5 STATE OF SOUTH CAROLINA : 6 and HENRY D. McMASTER, : 7 in his official capacity : 8 as Attorney General for : 9 the State of South : Civil Action No. 10 Carolina, : 07-CP-40-0285 11 Plaintiff, : 12 vs. : Civil Action No. 13 SANDOZ, INC., : 07-CP-40-0287 14 Defendant. : 15 -----X 16 17 18 19 20 21 22</p>	<p>1 APPEARANCES (Continued:) 2 3 On behalf of Ven-A-Care: 4 5 ROSLYN G. POLLACK, ESQ. 6 Berger & Montague, P.C. 7 1622 Locust Street 8 Philadelphia, Pennsylvania 19103-6305 9 TELEPHONE: (215) 875-4666 10 E-MAIL: rpollack@bm.net 11 12 On behalf of U.S. Department of 13 Health and Human Services: 14 15 LESLIE STAFFORD, ESQ. 16 U.S. Department of Health and 17 Human Services 18 Office of General Counsel, CMS Division 19 7500 Security Boulevard 20 Mail Stop C2-05-23 21 Baltimore, Maryland 21244-1850 22 TELEPHONE: (410) 786-9655</p>

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<p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of City of New York and New York</p> <p>4 counties:</p> <p>5</p> <p>6 MICHAEL WINGET-HERNANDEZ, ESQ.</p> <p>7 WINGET-HERNANDEZ LLC</p> <p>8 3112 Windsor Road</p> <p>9 Suite 228</p> <p>10 Austin, Texas 78703</p> <p>11 TELEPHONE: (512) 474-4095</p> <p>12 E-MAIL: Michael@winget-hernandez.com</p> <p>13</p> <p>14 On behalf of Abbott Laboratories:</p> <p>15</p> <p>16 DAVID S. TORBORG, ESQ.</p> <p>17 Jones Day</p> <p>18 51 Louisiana Avenue, N.W.</p> <p>19 Washington, D.C. 20001-2113</p> <p>20 TELEPHONE: (202) 879-5562</p> <p>21 E-MAIL: Dstorborg@jonesday.com</p> <p>22</p>	<p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of GlaxoSmithKline:</p> <p>4</p> <p>5 SHANKAR DURAISWAMY, ESQ.</p> <p>6 Covington & Burling LLP</p> <p>7 1201 Pennsylvania Avenue, N.W.</p> <p>8 Washington, D.C. 20004</p> <p>9 TELEPHONE: (202) 662-5273</p> <p>10 E-MAIL: Sduraiswamy@cov.com</p> <p>11</p> <p>12 On behalf of Bristol-Myers Squibb Company:</p> <p>13 (via telephone)</p> <p>14</p> <p>15 SANDHYA P. KAWATRA, ESQ.</p> <p>16 Hogan & Hartson LLP</p> <p>17 875 Third Avenue</p> <p>18 New York, New York 10022</p> <p>19 TELEPHONE: (212) 918-3532</p> <p>20 E-MAIL: Spkawatra@hhlaw.com</p> <p>21</p> <p>22 (Continued)</p>
Page 11	Page 13
<p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of Dey, Inc.:</p> <p>4</p> <p>5 NEIL MERKL, ESQ.</p> <p>6 Kelley Drye & Warren LLP</p> <p>7 101 Park Avenue</p> <p>8 New York, New York 10178</p> <p>9 TELEPHONE: (212) 808-7811</p> <p>10 E-MAIL: Nmerkl@kelleydrye.com</p> <p>11</p> <p>12 On behalf of Roxane Laboratories and</p> <p>13 Boehringer Ingelheim:</p> <p>14</p> <p>15 ERIC GORTNER, ESQ.</p> <p>16 Kirkland & Ellis LLP</p> <p>17 200 East Randolph Drive</p> <p>18 Chicago, Illinois 60601</p> <p>19 TELEPHONE: (312) 861-2285</p> <p>20 E-MAIL: Egortner@kirkland.com</p> <p>21</p> <p>22 (Continued)</p>	<p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of Baxter Health Care Corporation</p> <p>4 (via telephone):</p> <p>5</p> <p>6 SHAMIR PATEL, ESQ.</p> <p>7 Dickstein Shapiro LLP</p> <p>8 1825 Eye Street, N.W.</p> <p>9 Washington, D.C. 20006</p> <p>10 TELEPHONE: (202) 420-2728</p> <p>11 E-MAIL: Patels@dicksteinshapiro.com</p> <p>12</p> <p>13 On behalf of the State of Alabama (via telephone):</p> <p>14</p> <p>15 W. DANIEL (DEE) MILES, III</p> <p>16 Beasley, Allen, Crow, Methvin,</p> <p>17 Portis & Miles</p> <p>18 218 Commerce Street</p> <p>19 Post Office Box 4160</p> <p>20 Montgomery, Alabama 36103-4160</p> <p>21 TELEPHONE: (334) 269-2343</p> <p>22 (Continued)</p>

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<p style="text-align: right;">Page 14</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 On behalf of Sandoz, Inc. (via telephone):</p> <p>4</p> <p>5 DAVID L. KLEINMAN, ESQ.</p> <p>6 White & Case LLP</p> <p>7 1155 Avenue of the Americas</p> <p>8 New York, New York 10036-2787</p> <p>9 TELEPHONE: (212) 819-8254</p> <p>10</p> <p>11 On behalf of the State of California</p> <p>12 (via telephone):</p> <p>13</p> <p>14 RITA HANSCOM, ESQ.</p> <p>15 Bureau of Medi-Cal Fraud & Elder Abuse</p> <p>16 Office of the Attorney General</p> <p>17 California Department of Justice</p> <p>18 TELEPHONE: (619) 688-6099</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (Continued)</p>	<p style="text-align: right;">Page 16</p> <p>1 I-N-D-E-X</p> <p>2 WITNESS: PAGE:</p> <p>3 LARRY REED</p> <p>4 Examination by Mr. Torborg..... 029</p> <p>5</p> <p>6</p> <p>7 E-X-H-I-B-I-T-S</p> <p>8 NUMBER DESCRIPTION PAGE</p> <p>9 Exhibit Abbott 321-Plaintiffs' Rule 26(a)(1)</p> <p>10 Disclosures..... 151</p> <p>11 Exhibit Abbott 322-Documentation, Bates Stamp</p> <p>12 Nos. HHC007-0979 through 80. 231</p> <p>13 Exhibit Abbott 323-Documentation, Bates Stamp</p> <p>14 Nos. TX-ABT_00013723</p> <p>15 through 32..... 234</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 15</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 On behalf of the State of Florida (via telephone):</p> <p>4</p> <p>5 MARY S. MILLER, ESQ.</p> <p>6 Office of the Attorney General of Florida</p> <p>7 PL-01, The Capitol</p> <p>8 Tallahassee, Florida 32399-1050</p> <p>9 TELEPHONE: (850) 414-3600</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 17</p> <p>1 P R O C E E D I N G S</p> <p>2</p> <p>3 THE VIDEOGRAPHER: Good morning. This</p> <p>4 is the video deposition of Larry Reed in the</p> <p>5 matter of In Re: Pharmaceutical Industry Average</p> <p>6 Wholesale Price Litigation, MDL No. 1456, Civil</p> <p>7 Action No. 01-CV-12257-PVS, in the United States</p> <p>8 District Court for the District of Massachusetts.</p> <p>9 This document relates to U.S. ex rel.</p> <p>10 Ven-A-Care of Florida Keys, Inc., versus Abbott</p> <p>11 Laboratories, Inc., Case No. 06-CV-11337-PBS,</p> <p>12 held in the offices of Hogan & Hartson at 111</p> <p>13 South Calvert Street, Baltimore, Maryland, on</p> <p>14 this date, Wednesday, September 22nd, 2000 --</p> <p>15 correction, Wednesday, September 26th, 2007, at</p> <p>16 the time indicated on the video screen, 9:26 a.m.</p> <p>17 My name is Ellen Heber; I am the legal</p> <p>18 video specialist. The court reporter is Dawn</p> <p>19 Jaques. We are employed by Henderson Legal</p> <p>20 Services.</p> <p>21 Counsel will now introduce themselves</p> <p>22 and the parties they represent, after which the</p>

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<p style="text-align: right;">Page 258</p> <p>1 drugs, both single and multiple source (even if 2 the drug has a MAC)."</p> <p>3 Earlier today, Mr. Reed, you made 4 reference to some federal regulations relating to 5 estimated acquisition cost, and I believe you 6 said there was some language you're familiar with 7 about what governs that.</p> <p>8 Is this language familiar to you as 9 that language?</p> <p>10 A. Parts of it are. Parts of it look to 11 be different than what the current regulations 12 are governing EAC.</p> <p>13 MS. MARTINEZ: For the record, I do 14 believe in 1987 there was a slight change in the 15 regulations.</p> <p>16 BY MR. TORBORG:</p> <p>17 Q. Okay. If I could ask you to go to the 18 top of the third page of the document, it has a 19 number in the upper right-hand corner, 10.193.</p> <p>20 The report states, "Within the 21 pharmaceutical industry, AWP means non-discounted 22 list price."</p>	<p style="text-align: right;">Page 260</p> <p>1 that list price or what price I would equate that 2 with.</p> <p>3 Q. What does the term "list price" mean? 4 Are you familiar with that term in this industry?</p> <p>5 A. I've heard it mentioned on many 6 occasions.</p> <p>7 Q. What is your understanding of what it 8 means?</p> <p>9 A. A list price would be a full price that 10 a purchaser may or may not obtain a drug at.</p> <p>11 Q. And you've heard the term AWP referred 12 to or analogized to a sticker price on a car; is 13 that fair to say?</p> <p>14 A. I have heard that term, yes.</p> <p>15 Q. And have you also heard the term 16 average wholesale price being called ain't what's 17 paid, right?</p> <p>18 A. It look a long time to get to that 19 joke, but we finally got there, yeah.</p> <p>20 Q. Okay. When did you get to that joke?</p> <p>21 A. For you to get to that joke --</p> <p>22 Q. Yes.</p>
<p style="text-align: right;">Page 259</p> <p>1 Mr. Reed, was that consistent with your 2 understanding of what the term "AWP" meant in the 3 pharmaceutical industry?</p> <p>4 A. At this point in time? I wasn't 5 working in the program at this point in time.</p> <p>6 Q. When you started your position in 1990 7 on the Medicaid side working on prescription drug 8 issues, was this sentence consistent with your 9 understanding of what the term AWP meant?</p> <p>10 A. To qualify that a little bit, if AWP 11 meant the published price in a pricing compendia 12 that the state would have referenced or used in a 13 state plan amendment, then it would be -- it 14 would be my understanding that that AWP would be 15 more than the state should pay for the drug. In 16 other words, AWP should be discounted.</p> <p>17 Q. Was it your understanding that AWP 18 referred to a non-discounted list price?</p> <p>19 A. It's my understanding that AWP is a 20 price, again, that was reported in the compendia 21 that would be more than what a state would pay 22 for a drug. I'm not quite sure if I would equate</p>	<p style="text-align: right;">Page 261</p> <p>1 A. -- today.</p> <p>2 Q. Okay. Yes, it is 3:30.</p> <p>3 When did you learn about that?</p> <p>4 A. The saying has been around for a long, 5 long time.</p> <p>6 Q. If I could ask you to flip forward in 7 this document to the page ending -- or with the 8 number in the upper right-hand corner 10,205, I'd 9 like to read some of the language in the last 10 paragraph and ask you some questions about it.</p> <p>11 Actually, why don't you just read that 12 to yourself, and then I'll follow up some --</p> <p>13 A. The last paragraph on that page 14 beginning on February 22nd?</p> <p>15 Q. Yes --</p> <p>16 A. Okay.</p> <p>17 Q. -- and then continuing over to the next 18 page.</p> <p>19 (A discussion was held off the 20 record.)</p> <p>21 THE WITNESS: Just until the top of 22 conclusions on the next page?</p>

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